IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 17068 of 2004

Between:

Bonela Guraiah, S/o. Late Lingaiah, Hindu,
R/o. Mala Street Bobbili Road, Srikakulam District.

..... PETITIONER

AND

1 State of Andhra Pradesh, Represented by its Secretary,
Land Acquisition, Secretariat Buildings, Hyderabad.
2 Revenue Divisional Officer, Palakonda, Srikakulam District.
3 The Special Deputy Collector for Land Acquisitions, Rajam.
4 Secretary, A.P. Agricultural Market Committed, Rajam, Srikakulam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, one particularly in the nature of Writ of Certiorari to call for the records pertaining to acquisition of the petitioner's land in Survey No. 74/3 and 74/4 of Gopalpuram Village, Rajam Mandal, Srikakulam District in Award No. 5/81 from the Respondents No. 2 and 3 quash the proceedings of the Respondent No. 2 in Rc.No. 724/2004 dated 11-8-2004 as arbitrary, illegal, opposed to the principles of natural justice and equity and to direct the Respondents No. 2 and 3 to pay the compensation payable to the petitioner after conducting the land acquisition proceedings by issuing notice.

Counsel for the Petitioner:MR.K.SOMESWARA KUMAR

Counsel for the Respondents 1 to 3: GP FOR LAND ACQUISITION

Counsel for the Respondent No.4:MR.POSANI VENKATESWARULU

The Court, at the stage of admission, made the following :

ORDER

Petitioner invoked the *Certiorari* jurisdiction of this Court to call for the records pertaining to the acquisition of the land in Sy.No.74/3 and 74/4 of Gopalapuram Village, Rajam Mandal, Srikakulam District, from the respondents, to quash the proceedings of the respondent No.2 in R.C.No.724 of 2004 dated 11.8.2004 and to direct the respondents 2 and 3 to pay the compensation to the petitioner after conducting the land acquisition proceedings.

Petitioner claims to be the successor of the land to an extent of Ac.2.09 cents comprising of Ac.1.15 cents and Ac.0.94 cents in Sy.Nos. 74/3 and 74/4 respectively, after the death of his father, late Lingaiah. In or about 1992, when the fourth respondent raised a wall on the Southern edge of the land in question, petitioner filed O.S.No. 5 of 1995 on the file of the District Munsiff, Rajam for an injunction restraining the fourth respondent from making such constructions. The fourth respondent contested the suit on the ground that the land in question along with other lands was acquired under the Land Acquisition Act in the year 1981 for construction of Market Yard and the possession of the same was also delivered to it by the Special Deputy Collector on 28.11.1981. The said suit was dismissed on 18.08.1998. Thereafter when the petitioner approached for compensation, the Revenue Divisional Officer-second respondent herein through proceedings in RC No.724/04, dated 11.8.2004 informed the petitioner that the compensation was paid by the Land Acquisition Officer to the petitioner's father as early as on 27.11.1981 in Award No.5 of 1981 and the petitioner is not entitled to any further compensation. The present writ petition is filed contending that the petitioner or his father has not been paid any compensation. It is also contended that the alleged award has not been enclosed with the impugned endorsement and in the written statement filed by the fourth respondent in O.S.No.5 of 1995 there is no mention about the payment of

compensation to the petitioner's father. It is further contended that the respondents have fabricated the records in issuing the impugned endorsement and hence, the same is liable to be set aside.

A perusal of the Judgment in O.S.No.5 of 1995 clearly discloses that the pattadar pass books, on which basis, the petitioner claimed to be the owner of the lands, are found to be not issued in favour of the petitioner after the death of his father, as is evident from Ex.B.14, 17-A register. Under Ex.B.3 Government permitted the Market Committee to acquire an area of Ac.10-36 cents in S.No.137 part and S.No.74 part and as per the admissions made by PWs.2 and 3 and the contents in Ex.B.8, the plaint schedule property was acquired by the Government for the purpose of Market Yard and possession was also delivered to the defendants therein.

Heard the learned counsel for the petitioner and learned Government Pleader for Land Acquisition.

Learned Government Pleader for Land Acquisition submits that on passing the award in Award No.5 of 1981, the records were returned to the Revenue Department and the record of evidence relating to the payments, was submitted to the Accountant General and hence, the records are not in possession of the respondents. In view of the same, the claim made by the petitioner for payment of compensation is a stale claim. Due to lapses it cannot be entertained at this belated stage.

Hence, the writ petition is dismissed on the ground of laches. No costs.

A. GOPAL REDDY. J.

8th November, 2004

tsr.

To

1 The Secretary, Land Acquisition, State of A.P., Secretariat Buildings, Hyderabad.
2 Revenue Divisional Officer, Palakonda, Srikakulam District.
3 The Special Deputy Collector for Land Acquisitions, Rajam.
4 The Secretary, A.P. Agricultural Market Committed, Rajam, Srikakulam District.

5. Two C.C.s to Government Pleader for Land Acquisition, High Court Buildings, Hyderabad. (OUT)

6. Two C.D. copies.